

black pinesnake

Questions and Answers

Reopening of comment period on proposed rule to designate critical habitat for the black pinesnake under the Endangered Species Act.

J. Lee/TNC

Q1: What action is the U.S. Fish and Wildlife Service taking?

A: The Service is reopening the comment period for 30 days on our 2015 proposed critical habitat designation for the federally threatened black pinesnake. We also are re-announcing the availability of the draft economic analysis.

Q2: What is the black pinesnake and where is it found?

A: The black pinesnake is a large, nonvenomous snake, one of three subspecies of pinesnakes in the southeastern United States. These snakes are typically all black and may reach up to six feet in length. They are also known as gopher snakes due to their overlapping range with the gopher tortoise and tendency to use underground stump holes and tunnels.

Today, they inhabit the upland longleaf pine forests of south Mississippi and southwestern Alabama.

Q3: What is the status of the black pinesnake?

The Service listed the black pinesnake as threatened under the Endangered Species Act in November 2015, with exemptions permitted under a 4(d) rule.

Q4: What is critical habitat?

A: Critical habitat is a term in the ESA that identifies geographic areas that are necessary for the conservation of a threatened or endangered species. The ESA defines conservation as actions leading toward the eventual recovery of a species to the point where it no longer meets the definition of an endangered or threatened species under the ESA.

Q5: What does a critical habitat designation do?

A: The ESA requires federal agencies, including the Service, to ensure that any action they fund, authorize, or carry out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of its designated critical habitat.

In addition, the ESA requires federal agencies to consult with the Service on any of their actions that may affect critical habitat in designated areas. The Service would then advise agencies whether the permitted actions would likely jeopardize the continued existence of the animal or adversely modify critical habitat and recommend ways to minimize any adverse effects.

Q6: Why did the Service propose to designate critical habitat for the black pinesnake and why are they now reopening the comment period?

A: The ESA requires the Service to identify critical habitat at the time it determines a plant or animal should be protected under the ESA, to the maximum extent it is determinable and prudent for that species. The Service has sufficient knowledge of the habitat requirements of this snake to determine critical habitat and has determined the designation is prudent. We are reopening the comment period to allow the public additional time to comment on this action and also to announce slight revisions to the proposed critical habitat units in Alabama (See Q9 below).

Q7: How does the Service determine what areas to propose for critical habitat?

A: Biologists consider the physical and/or biological habitat features needed for life history functions and successful reproduction of the subspecies. These include, but are not limited to: space for normal behavior; food, water; and other nutritional or physiological requirements; cover or shelter; sites for breeding and

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rearing offspring; and habitats that are protected from disturbance or are representative of the historic distribution of the subspecies.

Once these habitat features are characterized, the Service determines where across the range of the subspecies these features still exist and could still sustain a population.

Q8: *What geographic areas are proposed as critical habitat and who are the landowners?*

- A. The Service is proposing to designate a total of 338,379 acres as critical habitat in six units (one of which consists of two subunits) in Forrest, George, Greene, Harrison, Jones, Marion, Perry, Stone, and Wayne counties, Mississippi; and two units in Clarke County, Alabama.

Total approximate percentages of land ownership are:

- Federal: 70 percent;
- Private: 27 percent;
- State: 3 percent;
- Local: less than 1 percent.

The primary federal landowner is the U.S. Forest Service, as the majority of five of the six units in Mississippi are on the De Soto National Forest.

Q9: *What are the differences between the 2015 proposed critical habitat designation and this one?*

- A: The Service is announcing new information and changes from the March 11, 2015, proposed designation, primarily:

- In Unit 7 (Clarke County, Alabama), we announced the 2015 record of a black pinesnake in this unit and also the withdrawal of Scotch Land Management Company's lands from the Alabama Department of Conservation and Natural Resources' Wildlife Management Area (WMA) program, resulting in the name change of this unit from Scotch WMA to Jones Branch.
- In Unit 8 (Fred T. Stimpson WMA, Clarke County, Alabama), based on a reassessment using updated aerial imagery, wetlands, elevation, soils, and land cover, we slightly revised the boundary. The revised Unit 8 was therefore shifted to

the south, which resulted in more acreage within the WMA. Overall, the total acreage in Unit 8 is now 5,940 acres, of which 36 percent are privately owned and 64 percent are owned by the State of Alabama. This is an increase of 279 acres from the original 5,661 acres (55 percent private, 45 percent state) in our March 11, 2015, proposed designation.

Q10: *Does a critical habitat designation mean an area is considered a wildlife refuge or sanctuary?*

- A: No. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. A critical habitat designation identifies areas that are important to the conservation of federally listed threatened or endangered species. This designation does not allow the government or public to access private lands, nor does it require implementation of restoration, recovery, or enhancement measures by non-federal landowners.

Q11: *How will the designation of critical habitat for the pinesnake affect private landowners?*

- A: This critical habitat designation is expected to have limited impact on private landowners for several reasons. The majority of the proposed critical habitat is not on private lands, and even when it is found on private lands, it is limited to only those areas that contain the habitat features as described under Q13 below. In addition, critical habitat designation does not affect activities on private lands unless some sort of federal permit, license or funding is involved. It also does not require landowners to actively manage their lands in a certain way such as converting their land to longleaf pine forest or conducting prescribed burning, nor does it require pinesnake monitoring.

Q12: *Did the Service include any unoccupied habitat within the proposed critical habitat designation?*

- A: No. All units are currently occupied by the black pinesnake.

Q13: *What kind of habitat is considered critical to the black pinesnake?*

- A: Based on the Service's current knowledge of the life history, biology and ecology of the subspecies and the

requirements of the habitat to sustain its essential life history functions, we determined that the specific elements of important physical and biological features needed for the conservation of the black pinesnake are:

- A longleaf pine-dominated forest, maintained by frequent fire, and comprising at least 5,000 acres of mostly unfragmented habitat. This is an estimate of the area necessary to support a viable black pinesnake population. The forest should have an open canopy, reduced shrub layer (woody mid-story), and abundant herbaceous groundcover.
- Naturally burned-out or rotted-out pine stumps and their associated root systems, in longleaf pine forests on ridges with elevation of 150 feet (46 meters) or greater.
- Deep, well-drained soils, characterized by high sand content and no flooding.

Q14: *What activities could adversely affect critical habitat and may require special management considerations for the black pinesnake?*

- A: Activities that may affect critical habitat (i.e., those areas identified specifically in the proposed designation) include, but are not limited to, the following:
- Timber management and site preparation activities that involve significant ground disturbance.
 - Construction or widening of highways.
 - Conversion of (occupied) habitat to agricultural or urban areas.
 - Silvicultural activities that limit or eliminate suitable habitat, including conversion of mature open-canopied longleaf pine forest into high density off-site pine plantations that will result in a closed-canopy condition.
 - Silvicultural activities that limit or eliminate the abundant herbaceous native groundcover, including broad-scale herbicide

application that is not specifically targeted to eliminate hardwoods, reduce hazardous fuels, or control invasive species.

This list only applies to those areas identified as part of the critical habitat. Even in those areas, entirely private activities that do not involve federal permits, funding, or approval do not require consultation.

Q15: Are all areas within the critical habitat boundaries for the black pinesnake considered critical habitat?

A: No. In order for an area to be designated as critical habitat, the area has to contain one or more of the physical and biological elements essential to support the life history needs of the species or be essential to the conservation of the species. Critical habitat does not include existing developed sites such as homes or other urban structures, agricultural areas, highways, or other similar structures.

Q16: Does the ESA consider economic consequences as a part of designating critical habitat?

A: Yes. The Service must take into account the economic impact, as well as national security impacts or any other relevant impacts, of specifying any particular area as critical habitat. The Service may exclude any area from critical habitat if it determines the benefits of excluding it outweigh the benefits of specifying the area as part of critical habitat, unless the Service determines that failure to designate the areas as critical habitat would result in extinction of the species.

The economic analysis for the black pinesnake estimates the incremental impacts from the critical habitat designation to be \$190,000 the first year and less in subsequent years. There should be no loss of revenue to private landowners engaging in their normal timber operations because of this rule. The costs are expected to be limited to additional administrative efforts on the part of federal agencies to consider impacts to critical habitat from their activities. This finding is due to the significant protections already afforded to the black pinesnake in many proposed units due to its range overlapping with other listed

species. The presence of existing management plans, critical habitat, or conservation actions benefitting gopher tortoises, red-cockaded woodpeckers, and dusky gopher frogs will also benefit black pinesnakes due to similar habitat needs. In addition, project modifications that would likely be undertaken to avoid impacts to critical habitat are expected to be the same as those that would be done to avoid impacting the snake itself.

Q17: What impacts will these rules have to military readiness or training at Camp Shelby?

A: Currently, military training activities occur on Camp Shelby in areas with listed species, specifically the gopher tortoise and red-cockaded woodpecker, which use virtually identical habitat as the black pinesnake. Therefore, we expect there to be little additional impact to military readiness or training from this rule, as the existing precautions and policy surrounding activities in occupied gopher tortoise habitat (e.g., potential ground disturbance associated with training) would be acceptable for occupied black pinesnake habitat as well. In addition, we are proposing to exempt lands covered under the Mississippi Army National Guard's Integrated Natural Resources Management Plan from critical habitat designation, and are considering the exclusion of other installation lands due to national security concerns.

Who should you contact for more information?

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